

1 COMMONWEALTH OF MASSACHUSETTS  
2 DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY  
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6 FIBER TECHNOLOGIES NETWORKS, L.L.C. )  
7 140 Allens Creek Road )  
8 Rochester, NY 14618 )  
9 )

10 Complainant, )  
11 )

12 v. )

D.T.E. 01-70

13 )  
14 TOWN OF SHREWSBURY ELECTRIC )  
15 LIGHT PLANT )  
16 100 Maple Avenue )  
17 Shrewsbury, MA 01545-5398 )  
18 )

19 Respondents. )  
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26 Direct Testimony of

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28 **Jennifer Starks**

29  
30 witness for

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32 Fiber Technologies Networks, L.L.C.  
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34 November 9, 2001  
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1   **Q:**     Please state your name, position and business address.

2   **A:**     My name is Jennifer Starks. I am the Treasurer and Secretary of ECC Technologies, Inc.

3   ("ECC"), 845 Fairport Office Centre, Fairport, N.Y. 14450. ECC is a network consulting firm.

4   ECC specializes in consulting services and support for interactive voice, data, video, security and

5   fiber technologies. ECC's typical customers are municipalities, corporations and school districts.

6   As Treasurer and Secretary of ECC, I obtain all pole attachment and conduit agreements for

7   ECC. In addition, I am the Manager of Accounting and Human Resources. I was responsible for

8   all contractual agreements, including pole attachment agreements, conduit agreements and right-

9   of-way agreements, for ECC and Fiber Systems, now a subsidiary of Fiber Technologies

10   Networks, L.L.C. ("Fibertech").

11   **Q:**     How long have you worked at ECC Technologies?

12   **A:**     March 1, 1999 to the present.

13   **Q:**     On whose behalf is this testimony being presented?

14   **A:**     I am appearing on behalf of Fibertech.

15   **Q:**     Please describe the work you do for Fibertech.

16   **A:**     I assist Fibertech in obtaining pole attachment and conduit agreements with pole owners

17             in several states throughout the country.

18   **Q:**     Did you contact the Town of Shrewsbury Electric Light Plant ("SELP") on Fibertech's

19             behalf?

20   **A:**     Yes I did. I made initial contact with SELP on September 26, 2000, because Fibertech

21             wanted to obtain access to SELP's poles for the attachment of Fibertech's fiber.

22   **Q:**     Whom did you speak with when you contacted SELP on September 26, 2000?

23   **A:**     I spoke with Thomas R. Josie, General Manger of SELP.

1   **Q:**    What do you recall was said in your conversation with Mr. Josie?

2   **A:**    I informed Mr. Josie that I was contacting him on behalf of Fibertech to request a pole  
3           attachment agreement and license which would allow Fibertech to attach its fiber to  
4           SELP's poles. Initially, Mr. Josie informed me that SELP does not allow anyone on their  
5           poles, stating, "there's nothing in it for me." After some discussion, he agreed to let me  
6           send him a formal letter of request identifying all street poles and intersections where  
7           Fibertech wanted to run fiber.

8   **Q:**    What did you do next with regard to Fibertech's request for pole attachments from  
9           SELP?

10  **A:**    On October 2, 2000, on behalf of Fibertech, I sent to Mr. Josie a letter requesting a pole  
11           attachment agreement and license permitting Fibertech to attach its fiber to SELP's poles.  
12           Included in this formal request was a list of the SELP poles and locations where  
13           Fibertech wished to attach.<sup>1</sup>

14  **Q:**    What did Fibertech's proposed installation consist of?

15  **A:**    It requested attachments to approximately 117 poles, listing their identifying markers and  
16           the street address the poles were on.

17  **Q:**    When was your next contact with SELP on Fibertech's behalf?

18  **A:**    On October 17, 2000, I had another telephone conference with Mr. Josie. Mr. Josie  
19           informed me that SELP would not agree to any pole attachment agreement whereby  
20           Fibertech would retain ownership of the cable, again stating, "there's nothing in it for  
21           me." Mr. Josie inquired, "Would Fibertech be interested in leasing fiber optic cable from  
22           SELP?" I told Mr. Josie I would pass this request on to Fibertech's counsel and VP of

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<sup>1</sup> A true copy of Fibertech's October 2, 2000, letter is attached hereto as Attachment 1.

1 Engineering. I still requested he try to keep an open mind concerning Fibertech owning  
2 their fiber and attaching to SELP's poles.

3 **Q:** What was SELP's response?

4 **A:** On November 1, 2000, SELP sent to Fibertech an outline for a lease of fiber optic cable  
5 in Shrewsbury.<sup>2</sup> This lease agreement would have required, among other things, that  
6 Fibertech build and install a fiber optic system and then turn over ownership to SELP and  
7 lease fibers back. In addition, the lease agreement stated that SELP "will not permit any  
8 taps or laterals into its fiber optic cable with Shrewsbury for Fiber Systems [Fibertech] to  
9 serve any customers in Shrewsbury, except as SELP may allow for its sole benefit."

10 **Q:** After Fibertech received the lease proposal from SELP, did you have any more  
11 involvement with SELP regarding Fibertech's desire to attach its fiber to SELP's poles?

12 **A:** No. My involvement on this project ceased after that until this complaint arose.

13 **Q:** Are you being compensated by Fibertech in connection with your involvement in this  
14 case?

15 **A:** ECC is being compensated at my usual consulting rate for the time involved in my  
16 affidavit and testimony, the same as ECC was compensated for my initial consulting  
17 work.

18 **Q:** Does this conclude your testimony at this time?

19 **A:** Yes, it does.

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<sup>2</sup> A true copy of SELP's lease outline sent to Fibertech on November 1, 2000, is attached hereto as Attachment 2.